

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

**P.R.A. COMPANY, d/b/a VANTAGE
PLASTICS,**

Plaintiff,

v.

ARGLASS YAMAMURA SE, LLC,

Defendant.

Case No. 24-cv-10204

Hon. Thomas L. Ludington

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ELLIS, ROEDER & LAZAR, P.C.**
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FIRST AMENDED COMPLAINT

NOW COMES Plaintiff P.R.A. Company d/b/a Vantage Plastics (“Vantage”),
and for its First Amended Complaint against Defendant Arglass Yamamura SE, LLC
 (“Arglass”) filed pursuant to Fed. R. Civ. P. 15(a)(1)(B) alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, P.R.A. Company d/b/a Vantage Plastics (“Vantage”), is a Michigan corporation with its principal place of business in Standish, Michigan.

2. Defendant, Arglass Yamamura SE, LLC (“Arglass”), is a Delaware limited liability company with its principal place of business in Valdosta, Georgia.

3. The sole member of Arglass is another Delaware limited liability company, Arglass Yamamura, LLC.¹

4. Arglass Yamamura, LLC has two members, YGQ California, Inc. n/k/a Yamamura International California, Inc. and Cambium Arglass, LLC.²

5. YGQ California, Inc. n/k/a Yamamura International California, Inc., is a California corporation 100% owned by Nihon Yamamura Glass Co., Ltd. with its principal place of business in Walnut Creek, California.³

6. Cambium Arglass LLC is a Delaware limited liability company with eight members: José de Diego Arozamena (Arglass’ CEO), the Andrew J. Astrachan Trust, Marc Utay, the Utay Family Trust, Cathy Daniels, Bob Ezrin, Robert Friedman, and José M. Ruiz Luque (Arglass’ CFO).⁴

7. No member of Cambium Arglass LLC is a citizen of the state of Michigan.

¹ Case No. 7:22-cv-00059-HL, ECF No. 2.

² *Id.*

³ *Id.*

⁴ *Id.*

8. Accordingly, complete diversity exists between Plaintiff and Defendant because Plaintiff is a citizen of Michigan and no member of Defendant Arglass is a citizen of Michigan.

9. The District Court has original jurisdiction under 28 U.S.C. § 1332(a)(1) because it is a civil action between “citizens of different States” wherein the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

10. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial district.

FACTUAL ALLEGATIONS

11. In August 2019, Arglass announced plans to build its first U.S.-based glass container manufacturing plant in Valdosta, Georgia.

12. Production start-up was scheduled for November 2020, and Arglass expected to be fully operational by Q1 2021.

13. Arglass began seeking out vendors and suppliers to provide goods and services to support its glass operations.

14. One of those goods included reusable plastic, traceable (via RFID technology) pallets and tier sheets⁵ (collectively “Pallet Combos”) for palletizing finished glass product.

15. Vantage and Arglass first began discussing Vantage being the sole supplier of those Pallet Combos in May 2020.

16. Arglass explained it needed 30,000 Pallet Combos⁶ for its plant operations; they were strictly to be used to convey finished glass products within Arglass’ Georgia plant and for shipping finished glass products to its Continental US customers.

17. The Pallet Combos were to be manufactured to Arglass’ engineering specifications to ensure the Pallet Combos could be used with Arglass’ all new “state of the art” palletizing and bagging equipment being designed/manufactured/installed by Arglass vendors, All Glass s.r.l. and Messersi Packaging.

18. Arglass advised it did not want to buy the 30,000 Pallet Combos; instead, Arglass wanted to “use” the pallets and tier sheets for five (5) years and pay Vantage for its “use”.

19. Under this arrangement, the Pallet Combos would remain “**Vantage’s legal property** at all times.”

⁵ A tier sheet is used to separate layers or stacks of items on a pallet.

⁶ 30,000 Pallet Combos equals 30,000 pallets + 210,000 tier sheets.

20. In terms of timing of supply, Arglass represented it didn't need all 30,000 Pallet Combos by the time of its November scheduled production start-up; rather, Arglass expected Vantage to supply roughly 20% of its desired quantity by December 2020, an additional 50% between January and March 2021, and the remaining 30% between April and July 2021.

21. Arglass conceded this arrangement, and its Pallet Combo inventory onboarding plan, would require Vantage to incur significant upfront resources, costs and expenses almost immediately.

22. Accordingly, Arglass agreed to pay a one-time, lump-sum fee, in advance, to cover Vantage's product development and tooling costs and expenses and several security deposits (calculated based on the "value" of the Pallet Combos as determined by what Vantage could sell them for) between December 2020 and July 2021 to cover Vantage's "investment" and "margin".

23. The fee and security deposits were in addition to the monthly "use" fee Arglass would pay Vantage.

24. Arglass made clear that only Vantage would be supplying "100% of [its] pallet and tier sheet needs".

25. After these multiple discussions, on or about June 16, 2020, Vantage salesman Greg Murphy ("Murphy") met with Arglass CEO Arozamena and (then)

Head of Supply Chain Jose/Joe Luna (“Luna”) to evaluate the jobsite and finalize details of the supply arrangement.

26. On June 23, 2020, Vantage sent a proforma “Pallet Fleet Rental Agreement” (the “Rental Agreement”) containing typical lease agreement terms to Arglass for review and comment.

27. Vantage also asked Arglass to issue a purchase order to kick-off engineering and tooling given Arglass’ December 2020 timing for the initial supply of Pallet Combos.

28. On June 25, 2020 - and after reviewing the Rental Agreement - Arglass confirmed the various aspects of the arrangement in writing and indicated it “would be delighted to work with Vantage Plastics”.

29. On or about July 15, 2020, Vantage sent preliminary figures for security deposit and monthly “use” fee of \$89,768 (based on a \$4,932,105 valuation of the Pallet Combos) to Arglass along with data from which those figures were calculated.

30. Vantage also identified preliminary product development and tooling costs of \$49,747 and \$32,742, respectively, for the 56”x44” pallets and 48”x40” pallets to be specially manufactured for Arglass.

31. On July 17, 2020, Arglass countered with a monthly payment of \$48,367 (based on a \$2,626,305 valuation of the Pallet Combos) and clarifying the lower

valuation was based, in part, on the fact that RFID tags were only to be affixed to pallets.

32. On July 19, 2020, Arglass provided the engineering specifications for the tier sheets and pallets.

33. On or about July 20, 2020, Arglass provided the RFID tag coding information for the pallets to Vantage.

34. On or about July 31, 2020, Arglass advised Vantage it would need 5,000 56"x44" pallets and 35,000 tier sheets by December 31, 2020.

35. On August 11, 2020, Arglass issued Purchase Order No. AYSE000016 for \$49,747 and \$32,742 for pallet tooling (Arglass Purchase Order, **Ex. 1**) and asked for an updated security deposit and monthly rent figures from Vantage.

36. On September 25, 2020, Arglass sent a Pallet Combo onboarding schedule to Vantage. (Arglass Onboarding Table, **Ex. 2**).

37. Arglass indicated it had been able to "approximate" the number of Pallet Combos needed as 26,118 (instead of 30,000).

38. Despite this lower number, Arglass directed Vantage to deliver 5,000 Pallet Combos (5,000 pallets/35,000 tier sheets) by December 2020; an additional 5,011 Pallet Combos (5,011 pallets/35,077 tier sheets) by January 2021; and an additional 12,865 Pallet Combos (12,865 pallets/90,055 tier sheets) between February and April 2021.

39. On September 30, 2020 and after some additional negotiation about security deposit and monthly rent figures, Arglass told Vantage **it was “prepared to accept”** the Rental Agreement; if Vantage agreed to its proposed figures, **“we have a deal”**.

40. That same day, Vantage updated the working document/spreadsheet the parties had been using to negotiate security deposit and monthly rent figures with Arglass’ proposed figures and sent it back to Arglass, signaling acceptance.

41. In that same email, Vantage advised Arglass the engineering/CAD modeling for the pallets was complete, it was “ready to cut the tooling” and needed Arglass’ written approval to proceed.

42. On October 2, 2020, Arglass gave Vantage written approval to proceed. (Tooling Approval, **Ex. 3**).

43. On November 18, 2020, Vantage shipped ten (10) 56”x44” prototype pallets and fifty (50) tier sheets to Arglass to be tested with Arglass’ palletization equipment.

44. On November 30, 2020, Arglass started glass production at the Georgia plant.

45. Arglass anticipated having finished glass product in about 2 weeks and pressed Vantage about the timing of supplying the initial 5,000 Pallet Combos; Arglass

did not have tier sheets and did not want to use its existing wood pallet inventory to palletize.

46. After multiple discussions with its vendor, Vantage advised Arglass it could send 100 of the tier sheets (affixed with RFID tags as Arglass had requested) right away and that an additional 10,400 would be ready to ship by early January 2021; however, it was looking like mid-January 2021 before Vantage could supply any production-level pallets to Arglass (and that was also pending the testing).

47. Arglass expressed, in the near term, it would use the tier sheets with its existing wood pallet inventory while it waited for the pallets and consequently instructed Vantage to move forward with delivering the 100 tier sheets immediately.

48. Arglass received the 100 tier sheets on December 14, 2020. (Vantage 12/10/20 Invoice VS0006278, **Ex. 4**).

49. On December 15, 2020, Arglass accepted the tier sheets by confirming the tier sheets could be used with its existing pallet inventory.

50. On December 16, 2020, Arglass asked Vantage when it could send more tier sheets since Arglass was “pulling glass” in two days.

51. This prompted several phone calls and emails between Messrs. Murphy and Luna through the afternoon of December 17, 2020.

52. In those discussions, Arglass advised it now appeared it would need 45,000 tier sheets (instead of 35,000) by the end of the month.

53. Arglass instructed Vantage to expedite delivery of the 10,400 tier sheets and to order an additional 34,500 tier sheets “as soon as possible” to give Vantage time to apply the RFID tags and ship to Georgia.

54. Arglass explained that once it received Vantage’s production-level pallets, it would simply start using the tier sheets with those pallets.

55. Vantage reminded Arglass it had not yet returned a signed copy of the Rental Agreement and expressed concerns about ordering and delivering the 45,000 tier sheets without it, or a purchase order, in hand.

56. Arglass reassured Vantage it was in the process of signing the Rental Agreement, and if it did not, Arglass promised it would buy all 45,000 tier sheets for \$5.32/tier sheet.⁷

57. Following their phone call on December 17, 2020, Murphy prepared a **Tier Sheet – Interim Supply Agreement (the “Tier Sheet Agreement”)** documenting Arglass’ request for 45,000 tier sheets; Arglass’ stated intent for the tier sheets (for use with “non-Vantage pallets”); and Arglass’ agreement to pay \$5.32 for each tier sheet in the event Arglass did not sign the Rental Agreement.

58. On December 18, 2020, 10,416 tier sheets were shipped to Arglass.

59. After confirming the shipment, Vantage sent the Tier Sheet Agreement to Arglass to sign and contemporaneously asked Arglass to issue a purchase order for the

⁷ This was the parties’ agreed-upon per unit valuation used to calculate the agreed-upon security deposit and monthly rent payments in September 2020.

45,000 tier sheets to start the process for ordering the additional 34,500 requested tier sheets.

60. Vantage expressed it would only invoice against the purchase order in the event “we do not get the Rental Agreement in place. We both have confidence we will get the Rental Agreement closed, this is just in case”.

61. On December 21, 2020, Arglass accepted the 10,416 tier sheets. (Arglass Signed GTZ Bill of Lading, **Ex. 5**).

62. On December 22, 2020, Vantage again asked Arglass to sign the Tier Sheet Agreement and issue the purchase order.

63. In response, Arglass affirmed its agreement to pay for the tier sheets at the \$5.32 unit price and to sign the Tier Sheet Agreement.

64. Arglass/Luna told Vantage that with the Tier Sheet Agreement signed by Arglass, a purchase order would be unnecessary, and for this reason, Arglass/Luna did not issue one.

65. Arglass returned the signed Tier Sheet Agreement on December 23, 2020.

66. A copy of the fully executed Tier Sheet Agreement is attached as **Ex. 6**.

67. In late December/early January 2021, Vantage placed the order with its vendor for the 34,500 tier sheets in accordance with Arglass’ request/instructions.

68. Shortly thereafter, however, Arglass asked Vantage to pause delivery of the 34,500 tier sheets because Arglass was concerned about using them to ship glass to

its customers with Arglass' non-returnable pallets for fear the customers would not return the tier sheets.

69. On February 17, 2021, Vantage delivered and Arglass accepted ten (10) production-level pallets to Arglass for testing with Arglass' palletization equipment; however, the pallets couldn't be tested since Arglass' equipment wasn't working.

70. On March 8, 2021, Arglass asked its equipment manufacturer/vendor Messersi Packaging when the equipment would be up and ready for testing, noting it was "running out of" its wood pallet inventory and "**need[ed] to place the PO for Plastic** [pallets with Vantage]".

71. Resolution of the design issue with Arglass' equipment required a design modification to the pallets (a steel plate).

72. On March 23, 2021, Vantage notified Arglass the design modification would delay tooling of the 48"x40" pallets until April 20 and that pallets for testing would be available by April 21 or 22.

73. On April 1, 2021, Vantage sent the steel plate to Arglass in advance of the re-scheduled testing of Arglass' equipment and the 56"x44" pallets. (Vantage Invoice VS0007467, **Ex. 7**).

74. The pallets were retrofitted and Arglass tested them (along with 70 of the 10,416 tier sheets) on April 12, 2021.

75. **The Pallet Combos passed Arglass' testing.**

76. On April 13, 2021, Luna advised Arozamena, with a copy to Vantage, about the Pallet Combos passing testing and that Vantage was “ready to move forward”.

77. On April 22, 2021, the parties participated in a Microsoft Teams meeting, organized by Arglass.

78. During the meeting, **Arglass ordered Vantage to move forward with production of both pallet sizes and to begin shipping all finished Pallet Combos (pallets and tier sheets) on June 1, 2021.**

79. On May 24, 2021 and May 27, 2021, Arglass provided Vantage with written sign-off on the final engineering specifications to kick-off production/manufacture.

80. On June 7, 2021, Vantage notified Arglass that pallet production was “ongoing” and asked Arglass to send the signed Rental Agreement before Vantage would begin shipping them.

81. On June 16, 2021, Vantage sent a second request for the signed Rental Agreement: “Per the instructions from Arglass to run in parallel finalizing and signing the agreement and producing the first 5000 Qty of the 56 x 44 pallets, 35,000 Tier Sheets, and 3900 Qty of the 48 x 44 pallet, **as you know we have allocated all raw materials for this, and are currently manufacturing all of these items for you 24/7.**

We are accumulating truckloads of product and need to begin shipping as soon as possible”.

82. In response, Arglass claimed the Rental Agreement was with its bank for review and approval and it was waiting for customers to sign “pallet agreements” agreeing to return the reusable Pallet Combos.

83. Based on Arglass’ response, Vantage paused production and so advised Arglass on June 21, 2021.

84. In response, Arglass/Luna **promised Arglass “will be taking the pallets”** and that “this is just a delay on getting the feedback” from Arglass’ lender.

85. Vantage reiterated its significant investment and substantial performance to date undertaken to supply Arglass with the Pallet Combos: “Anything that can be done to try and expedite would help. **We have about 9 truckloads produced so far, and all the raw materials produced and allocated for the first 5000 qty of the 56 x 44 [pallets], 35,000 qty of Tier Sheets, and 3,900 qty of the 48 x 40 [pallets]”.**

86. On August 5, 2021, Arglass/Luna told Vantage Arglass was waiting to sign the Rental Agreement because there were issues with its RFID equipment; once the issues were resolved, Arglass would return the signed agreement.

87. Arglass/Luna directed Vantage to “release” 11,550 tier sheets but to store them at Vantage’s facility for expedited shipment to Arglass’ plant once the RFID equipment was “fully functional”.

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88. The 11,550 tier sheets were “released” to Vantage on August 9, 2021. (CoolSeal Invoice, **Ex. 8**).

89. On or about August 31, 2021, Arglass advised Vantage it was conducting more testing of its palletizing and bagging equipment and needed more of the production-level pallets for the testing.

90. Arglass/Arozamena ordered Vantage to ship all of the manufactured/completed pallets and tier sheets Vantage had been storing once that testing was completed.

91. At Arglass’ direction, Vantage delivered an additional seven (7) production-level pallets for the testing. (Vantage Invoice VS0009598, **Ex. 9**).

92. The additional testing was completed on September 15, 2021.

93. On October 4, 2021, Arglass advised Vantage and its equipment vendor a claimed “design flaw” in the bagging equipment had caused pallet transfer issues observed during the September testing (i.e. not an issue with Vantage’s pallets).

94. Once additional design modifications had been made, Arglass would run Vantage’s pallets “through the line again”.

95. Arglass advised it would also need to test Vantage’s pallets in its “**customers’ lines**” (i.e. equipment).

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96. This was completely illogical considering the pallets had not been designed for use in anything other than Arglass' equipment per Arglass' stated intent and engineering specifications.

97. In this way, over the course of the next several months: Arglass continued to delay returning the signed Rental Agreement; refused to pay for Vantage's tooling costs; refused to pay the security deposits and monthly "use" fees for the 10,416 tier sheets which Arglass had been using since December 2020; and refused to pay security deposits to cover Vantage's "investment and margins" to date.

98. By November 2021, Vantage had incurred \$615,043.81 in material procurement and manufacturing costs for the pallets and tier sheets specifically designed for, and requested by, Arglass.⁸

99. By the summer of 2022, and despite Vantage's substantial performance and investment to date, Arglass had not returned the signed Rental Agreement and had yet to compensate Vantage for same.

100. Accordingly, in July 2022, Vantage sent the first of several demands to Arglass.

⁸ By November 2021, Vantage had manufactured 1,084 56x44 pallets, 2,120 56x44 pallet sheet tops, 1,053 56x44 pallet sheet bottoms, 6,244 bars for the 56x44 pallets, 1,281 48x40 pallets, 2,493 48x40 pallet sheet tops, 1,349 48x40 pallet sheet bottoms manufactured to date and had obtained an additional 24,500 tier sheet blanks awaiting modification.

101. Since that time, while Arglass has responded to Vantage's demands it has failed to compensate Vantage.

102. Arglass' stated reasons for failing to compensate Vantage include falsely denying the validity of the Tier Sheet Agreement and its applicability to the 10,416 and 11,550 tier sheets.

103. Arglass falsely claims the 10,416 tier sheets were supplied for "testing" under the Rental Agreement and not for Arglass' "use" under the signed Tier Sheet Agreement.

104. Arglass also falsely disclaims the applicability of the Tier Sheet Agreement to the 11,550 tier sheets released and delivered to Vantage (at Arglass' request) in August 2021 since the tier sheets were not delivered to Arglass.

105. Arglass also falsely claims the 10,416 tier sheets failed testing (which they did not); the tier sheets were not reusable; and that its *customers* had "rejected" them.

106. However, Arglass/Luna confirmed that Arglass used, and continues to use, the 10,416 tier sheets delivered in December 2020 with non-Vantage pallets.

107. Arglass/Luna has also verified that Arglass "got at least three turns" out of the tier sheets (i.e. they are reusable).

108. It has also been confirmed that Arglass profited from the 10,416 tier sheets because it rented the tier sheets to its glass customers as part of its "returnable

plastic pallets and plastic returnable tier sheets Rental Program” between March 2021 and November 2023.

109. Arglass charged its glass customers a “60-day Rental Charge” calculated at “Arglass’...Daily Rental Rate” to use Vantage’s tier sheets.

110. In October 2022, in its counter-pleadings filed in the lawsuit initiated by All Glass, Arglass admitted that its glass customers were rejecting Arglass’ shipments because of All Glass’ “deficient equipment” (and not because of Vantage’s Pallet Combos): “glass product has been shipped without partitions to protect it from shattering, the wrong product has been shipped leading to the customer rejecting entire production lots...”

COUNT I – BREACH OF CONTRACT (Tier Sheet Agreement)

111. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

112. The Tier Sheet Agreement constitutes a valid and binding contract between Vantage and Arglass.

113. Arglass ordered 45,000 tier sheets to use with its existing pallet inventory on December 16, 2020.

114. Arglass accepted 10,416 tier sheets on December 21, 2020 and has been continuously using them since.

115. Arglass ordered an additional 11,550 tier sheets be released and stored by Vantage in August 2021 until Arglass' RFID equipment was "fully functional".

116. The additional tier sheets were ordered and delivered to Vantage per Arglass' request.

117. Arglass did not sign the Rental Agreement, which triggered the effectiveness of the Tier Sheet Agreement.

118. Arglass has breached the Tier Sheet Agreement by failing to pay for the tier sheets and all freight and additional expenses as required under the Tier Sheet Agreement.

119. As a direct and proximate result of Arglass' breach, Vantage has been damaged and continues to be damaged thereby.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant and award all direct, indirect, compensatory, exemplary, punitive and other damages in an amount in excess of \$75,000, together with interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

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COUNT II – BREACH OF CONTRACT (Tooling Purchase Order)

120. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

121. Arglass promised to pay for all product development and tooling for the 56"x44" and 48"x40" pallets.

122. Arglass issued Purchase Order AYSE000016 in the total amount of \$82,489 applicable to the product development and tooling of the pallets.

123. Purchase Order AYSE000016 constitutes a valid and binding contract between Arglass and Vantage.

124. Vantage has submitted invoices to Arglass against Purchase Order AYSE000016 for the product development and tooling of the pallets.

125. Arglass paid a portion of the tooling, but failed to pay in full Vantage's invoices, which constitutes a breach.

126. As a direct and proximate result of Arglass' breach, Vantage has been damaged and continues to be damaged thereby.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant and award all direct, indirect, compensatory, exemplary, punitive and other damages in an amount in excess of \$75,000, together with interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

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COUNT III – PROMISSORY ESTOPPEL (Pallet Combos Investment)

127. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

128. In May 2020, in lieu of purchasing 26,118 **Pallet Combos** to be designed and manufactured in accordance with Arglass’ specifications (for use with Arglass’ internal plant equipment and for shipping finished glass products within the continental US and to be provided for Arglass’ use beginning in December 2020), **Arglass promised and agreed to pay** Vantage a one-time, lump-sum amount to cover **product development and tooling costs associated with the Pallet Combos**. This included security deposits and monthly payments to which would compensate Vantage for its “investment” and “margins” in the Pallet Combos which would have been realized under a traditional purchase.

129. Arglass made these promises/agreements knowing they would induce Vantage to perform.

130. As evidence of its promises/agreements to compensate Vantage, and to further induce Vantage’s performance, Arglass (a) provided the engineering specifications for the Pallet Combos; (b) issued a purchase order for tooling; (c) provided an onboarding schedule reflecting the requested supply timing and proposed security deposits and monthly payments to be paid; (d) received 10,416 tier sheets and confirmed they could be used with Arglass’ pallets; (e) provided written

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approval to proceed with tooling; (f) tested the Pallet Combos in and with its equipment; (g) provided written conformation the Pallet Combos successfully passed testing; and (h) in April 2021, directed Vantage to move forward with production and begin shipping all final product starting June 1, 2021.

131. In reliance on Arglass' promises/agreements, and at Arglass' direction, Vantage incurred **\$615,043.81 in upfront "investment"** costs associated with manufacturing the Pallet Combos in accordance with Arglass' specifications and Arglass' approved use.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant in the amount of \$615,043.81, together with interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

COUNT IV – PROMISSORY ESTOPPEL (Tier Sheets)

132. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

133. Arglass has disavowed the validity of the Tier Sheet Agreement and disclaimed the applicability of the Tier Sheet Agreement to the 21,000 tier sheets for which Vantage has demanded payment.

134. Therefore, Vantage pleads this cause of action in the alternative to its breach of contract claim.

135. Arglass directed Vantage to obtain 45,000 tier sheets for Arglass' use with non-Vantage pallets.

136. Arglass promised and agreed to pay for the tier sheets and freight if Arglass did not sign the Rental Agreement to induce Vantage to act/perform.

137. In reliance upon Arglass' promise, Vantage produced and shipped the tier sheets ordered by Arglass.

138. Arglass ordered and accepted 10,416 tier sheets in December 2020 and confirmed they could be used with non-Vantage pallets.

139. Arglass ordered and accepted an additional 11,550 tier sheets and stored those tier sheets until Arglass' equipment was "fully functional" in August 2021.

140. Vantage has incurred costs and expenses associated with the ordered tier sheets.

141. Arglass did not sign the Rental Agreement and has not paid Vantage for the tier sheets ordered.

142. Vantage has been damaged as a result of its reliance on Arglass' promise and agreement to pay.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant and award all direct, indirect, compensatory, exemplary, punitive and other damages in an amount in excess of \$75,000, together with

interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

COUNT V – QUANTUM MERUIT/UNJUST ENRICHMENT

143. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

144. Arglass has disavowed the validity of the Tier Sheet Agreement and disclaimed the applicability of the Tier Sheet Agreement to the 10,416 tier sheets for which Vantage has demanded payment.

145. Vantage supplied 10,416 tier sheets to Arglass for use in December 2020 at Arglass' request and direction.

146. Arglass has been continuously using the tier sheets with non-Vantage pallets since December 2020.

147. Arglass has also provided the tier sheets to its glass customers as part of "Reusable Pallet Rental Program" between March 2021 and November 2023.

148. Arglass charged its glass customers a daily rental fee for their use of Vantage's tier sheets.

149. At all times relevant, the tier sheets remained Vantage's legal property.

150. Arglass has been unjustly and inequitably enriched, at Vantage's expense, for its use of Vantage's tier sheets for more than 39 months without compensating

Vantage, and therefore, Vantage pleads this cause of action in the alternative to its breach of contract claim as it pertains to Arglass' use of Vantage's tier sheets.

151. Arglass has also been unjustly and inequitably enriched, at Vantage's expense, by receiving compensation from its glass customers for their use of Vantage's tier sheets.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant and award all direct, indirect, compensatory, exemplary, punitive and other damages in an amount in excess of \$75,000, together with interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

COUNT VI – STATUTORY CONVERSION

152. Plaintiff incorporates each of the above allegations in this paragraph as if fully set forth herein.

153. Arglass has disavowed the validity of the Tier Sheet Agreement and disclaimed the applicability of the Tier Sheet Agreement to the 10,416 tier sheets for which Vantage has demanded payment.

154. Vantage supplied 10,416 tier sheets to Arglass in December 2020 at Arglass' request and direction, but Arglass has never paid for them.

155. Arglass has been continuously using Vantage's tier sheets with non-Vantage pallets since December 2020.

156. Arglass has also provided Vantage's tier sheets to its glass customers as part of "Reusable Pallet Rental Program" between March 2021 and November 2023.

157. Arglass charged its glass customers a daily rental fee for their use of Vantage's tier sheets.

158. At all times relevant, the tier sheets remained Vantage's legal property.

159. Arglass has never paid Vantage for the tier sheets or for using the tier sheets.

160. Accordingly, Arglass' wrongful retention and use of Vantage's 10,416 tier sheets since December 2020 for its own needs and purposes constitutes statutory conversion under MCL 600.2919a for which Vantage is entitled to treble actual damages, plus costs and attorney's fees.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor against Defendant and award all direct, indirect, compensatory, exemplary, punitive and other damages in an amount in excess of \$250,000, together with interest, costs, reasonable attorney's fees, and all other relief this Court finds just and equitable.

COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

**COUZENS, LANSKY, FEALK, ELLIS,
ROEDER & LAZAR, P.C.**

By: /s/ David A. Lawrence

David A. Lawrence (P48630)

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Dated: March 28, 2024

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2024, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the following: Joshua D. Apel and Frederic J. Bold, Jr., and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: none.

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